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THE
RAILWAY CLAUSES CONSOLIDATION
ACTS

OF
C A N A D A,

14 & 15 VICTORIA, CHAPTER 51,
AND 16 VICTORIA, CHAPTER 169,

WITH AN

ALPHABETICAL AND ANALYTICAL INDEX

THERE TO,

BY

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BARRISTER-AT-LAW, MONTREAL.

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1858.

RESEARCH AND ANALYSIS

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RESEARCH AND ANALYSIS

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CAP. LI.

An Act to consolidate and regulate the General
Clauses relating to Railways.

[30th August, 1851.]

WHEREAS it is expedient to establish a general and Preamble.

uniform system for the construction and management of all Railways hereafter to be undertaken in Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That this Act shall apply to every Railway which shall by any Act which shall hereafter be passed be authorized to be constructed, and this Act shall be incorporated with such Act; and all the clauses and provisions of this Act, save in so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

This Act to apply to any Railway to be hereafter constructed.

II. And be it enacted, That in citing this Act, in any Special Railway Act and in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression, "*The Railway Clauses Consolidation Act.*"

Name by which it shall be cited.

III. And be it enacted, That for the purpose of making any incorporation of this Act with Special Acts hereafter to be passed, it shall be sufficient in any such Acts to enact, that the Clauses of this Act, with respect to the matter so proposed to be incorporated, describing such matter as it is described in this Act, in the word or words at the head of and introductory to the enactment with respect to such matter, shall be incorporated with such Acts, and thereupon all the Clauses and provisions of this Act, with respect to

What shall be sufficient in making an incorporation of this Act with Special Acts.

the matter so incorporated shall, save in so far as they shall be expressly varied or excepted by such Acts, form part thereof, and such Acts shall be construed as if the substance of such Clauses and provisions were set forth therein with reference to the matter to which such Acts shall relate.

Power to construct Railway, &c. to be exercised subject to provisions of this Act.

IV. And be it enacted, That the power given by the Special Act to construct the Railway, and to take lands for that purpose, shall be exercised subject to the provisions and restrictions contained in this Act, and compensation shall be made to the owners and occupiers of and all other parties interested in any such lands so taken or injuriously affected by the construction of the Railway, for the value and for all damages sustained by reason of such exercise, as regards such lands, of the powers by this or the Special Act, or any Act incorporated therewith, vested in the Company; and, except where otherwise provided by this Act or the Special Act, the amount of such compensation shall be ascertained and determined in the manner provided by this Act.

(Sections 5 and 6 are repealed by 16 Vic., Cap. 2.)

INTERPRETATION.

Interpretation of words.

VII. And with respect to the construction of this Act, and of any Special Act, and of other Acts to be incorporated therewith, Be it enacted as follows:

"The Special Act."

Firstly. The expression "the Special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed, authorizing the construction of a Railway and with which this Act shall be so incorporated as aforesaid; and the word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the Special Act; and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act" had been used; and the expression "the lands" shall mean the lands which shall by the Special Act be authorised to be taken or used for the purpose thereof; and the expression "the undertaking" shall mean the Railway and works, of whatever description, by the Special Act authorized to be executed.

"Prescribed."

"The lands."

"The undertaking."

Secondly. The following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:

"Lands."

The word "Lands" shall include all real estate, messuages, lands, tenements and hereditaments of any tenure:

"Lease."

The word "Lease" shall include any agreement for a lease:

The word "Toll" shall include any rate or charge or "Toll," other payment payable under this Act or the Special Act for any passenger, animal, carriage, goods, merchandize, articles, matters or things conveyed on the Railway:

The word "Goods" shall include things of every kind "Goods." conveyed upon the Railway, or upon Steam or other vessels connected therewith:

The expression "Superior Courts" shall mean the Courts of Chancery, Queen's Bench and Common Pleas in Upper Canada, and the Superior Court in Lower Canada, as the case may be: "Superior Courts."

The word "County" shall include any union of Counties, "County." County Riding, or like division of a County in the Province or any division thereof into separate Municipalities in Lower Canada:

The word "Highways" shall mean all public roads, streets, "Highways." lanes, and other public ways and communications:

The word "Sheriff" shall include Under Sheriff, or other "Sheriff." legal competent Deputy; and where any matter in relation to any lands is required to be done by any Sheriff or Clerk of the Peace, the expression "the Sheriff," or the expression "Clerk of the Peace," shall in such case be construed to mean the Sheriff or Clerk of the Peace of the District, County, Riding, Division, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one District, County, Riding, Division, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any such District, County, Riding, Division, or place where any part of such lands shall be situate: "Clerk of the Peace."

The word "Justice" shall mean Justice of the Peace "Justice." acting for the District, County, Riding, Division, City or place where the matter requiring the cognizance of any such Justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one District, County, Riding, Division, City or place, shall mean a Justice acting for the District, County, Riding, Division, City, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall be understood to mean two "Two Justices." Justices assembled and acting together:

Where, under the provisions of this Act or the Special Act, any notice shall be required to be given to the owner of any lands, or where any Act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any Corpo- "Owner."

ration or person who, under the provisions of this Act, or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the Company :

"The Company."

The expression "the Company" shall mean the Company or party which shall be authorized by the Special Act to construct the Railway.

"The Railway."

The expression "the Railway" shall mean the Railway and works by the Special Act authorized to be constructed.

"Clause."

The word "Clause" shall mean any separate section of this Act, or any other Act therein referred to, distinguished by a separate number :

"Shareholder."

The word "Shareholder" shall mean every subscriber to or holder of stock in the undertaking, and shall extend to and include the personal representatives of the Shareholder.

Interpretation Act to apply.

Thirdly. The Interpretation Act of this Province shall, in so far as the provisions thereof shall apply hereto, be deemed to form part hereof in the particulars not provided herein.

INCORPORATION.

Companies established under Special Acts, declared to be bodies corporate, &c.

VIII. And be it enacted, That every Company established under any Special Act shall be and is hereby declared to be a body corporate under such name as shall be declared in the Special Act, and shall be and is hereby invested with all the powers, privileges and immunities which are or may be necessary to carry into effect the intentions and objects of this Act and of the Special Act therefor, and which are incident to such Corporation, as are expressed or included in the Interpretation Act of this Province.*

POWERS.

Powers :

IX. And be it enacted, That the Company shall have power and authority :

To receive grants of land, &c. ;

Firstly. To receive, hold and take all voluntary grants and donations of land or other property which shall

* By 12 Victoria, Chapter 10, Section 5, it is enacted, That, *Twenty-fourthly*, Words making any association or number of persons or body politic and corporate, shall be construed to vest in such Corporation, power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter and change the same at their pleasure, and to have perpetual succession and power to acquire and hold personal property or moveables for the purposes for which the corporation is constituted, and to alienate the same at pleasure ; and also to vest in any majority of the members of the Corporation, the power to bind the others by their acts ; and also to exempt the individual members of the Corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them ; but it shall not be lawful for any Corporation to carry on the business of banking, unless when such power shall be expressly conferred on them by the Act creating such Corporation.

(*Interpretation Act.*)

be made to it, to aid in the construction, maintenance and accommodation of the Railway, but which shall be held and used for the purpose of such grants or donations only.

Secondly. To purchase, hold and take of any Corporation or person any land or other property necessary for the construction, maintenance, accommodation and use of the Railway, and also to alienate, sell or dispose of the same.

Thirdly. To take, use, occupy and hold, but not to alienate except by way of lease, so much of the public beach or of the land covered with the waters of any river or lake in this Province as may be required for the Railway, doing no damage to, nor causing any obstruction in the navigation of the said rivers or lakes, provided that the lease shall be conditioned not to extend beyond the time during which such beach or land is required for the Railway.

Fourthly. To make, carry or place the Railway across or upon the lands of any Corporation or person whomsoever on the line of the Railway, or within the distance from such line as may be stated in the Special Act, although the name of such party be not entered in the Book of Reference hereinafter mentioned through error or any other cause, or although some other party be erroneously mentioned as the owner of or entitled to convey, or be interested in such lands.

Fifthly. To construct, maintain and work the Railway across, along, or upon any stream of water, water course, canal, highway, or railway which it shall intersect or touch; but the stream, water course, highway, canal or railway so intersected or touched, shall be restored by the Company to its former state, or to such state as not to have impaired its usefulness.

Sixthly. To make, complete, alter, and keep in repair the Railway with one or more sets of rails or tracks to be worked by the force and power of steam or of the atmosphere, or of animals, or by mechanical power, or by any combination of them.

Seventhly. To erect and maintain all necessary and convenient buildings, stations, depots, wharves and fixtures, from time to time to alter, repair or enlarge the same, and to purchase and acquire stationary or locomotive engines and carriages, waggons, floats and other machinery and contrivances necessary for the accommodation and use of the passengers, freights and business of the Railway.

Eighthly. To make branch Railways, if required and provided by the Special Act, and to manage the same, and for that purpose to exercise and possess all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the Railway.

Ninthly. To construct, erect and make all other matters and things which shall be necessary and convenient for the

Carry Railway across lands of Corporation, &c.

And across or along streams, &c.;

Complete Railway with one or more tracks, &c.;

Erect necessary buildings, wharves, &c.;

Branch Railways;

All other matters and things ne-

**cessary for Rail- making, extending and using of the Railway, in pursuance
way ;** of and according to the meaning and intent of this Act, and
of the Special Act.

**Convey persons and goods on
Railway ;** *Tenthly.* To take, transport, carry and convey persons and
goods on the Railway, to regulate the time and manner in
which the same shall be transported, and the tolls and com-
pensation to be paid therefor, and to receive such tolls and
compensation.

**Borrow money,
&c. ;** *Eleventhly.* To borrow from time to time, either in this
Province or elsewhere, such sums of money as may be expe-
dient for completing, maintaining and working the Railway,
and at a rate of interest not exceeding eight per cent. per
annum, and to make the Bonds, Debentures or other securi-
ties granted for the sums so borrowed, payable either in cur-
rency or in sterling, and at such place or places within this
Province or without as may be deemed advisable, and to sell
the same at such prices or discount as may be deemed expe-
dient, or as shall be necessary, and to hypothecate, mortgage
or pledge the lands, tolls, revenues and other property of the
Company for the due payment of the said sums and the in-
terest thereon, but no such debenture shall be for a less sum
than Twenty-five Pounds.

**Enter upon Her Majesty's Lands,
&c. ;** *Twelfthly.* To enter into and upon any lands of Her
Majesty without previous license therefor, or of any Corpo-
ration or person whatsoever lying in the intended route or
line of the Railway.

**Make surveys of
lands ;** *Thirteenthly.* To make surveys, examinations, or other
necessary arrangements on such lands necessary for fixing the
site of the Railway, and to set out and ascertain such parts
of the lands as shall be necessary and proper for the Railway.

Remove trees ; *Fourteenthly.* To fell or remove any trees standing in any
woods, lands or forests, where the Railway shall pass, to the
distance of six rods from either side thereof.

**Unite with other
Railways.** *Fifteenthly.* To cross, intersect, join and unite the Railway
with any other Railway, at any point on its route, and upon
the lands of such other Railway with the necessary conveni-
ences for the purposes of such connection; and the owners of both
Railways may unite in forming such intersection, and
grant the facilities therefor; and in case of disagreement
upon the amount of compensation to be made therefor, or
upon the point or manner of such crossing and connection,
the same shall be determined by Arbitrators to be appointed
by a Judge of the Superior Courts in Lower Canada or
Upper Canada, as the case may be.

PLANS AND SURVEYS.

X. And be it enacted, That Plans and Surveys shall be made and corrected as follows:

Firstly. Surveys and levels shall be taken and made of the lands through which the Railway is to pass, together with a Map or Plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also a Book of Reference for the Railway, in which shall be set forth a general description of the said lands, the names of the owners and occupiers thereof, so far as they can be ascertained, and every thing necessary for the right understanding of such Map or Plan; and the Map or Plan and Book of Reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his Deputies, who shall deposit copies thereof in the Office of the Clerks of the Peace in the Districts or Counties through which the Railway shall pass, and also in the Office of the Secretary of the Province, and shall also deliver one copy thereof to the said Company; and all persons shall have liberty to resort to such copies, and to make extracts or copies thereof, as occasion shall require, paying to the said Secretary of the Province, or to the said Clerks of the Peace, at the rate of Sixpence for every hundred words; and the said triplicates of the said Map or Plan and Book of Reference so certified, or a true copy thereof certified by the Secretary of the Province or by the Clerks of the Peace, shall be, and is and are hereby declared to be good evidence in any Court of Law and elsewhere.

Secondly. Any omission, mistatement or erroneous description of such lands, or of such owners or occupiers thereof, in any Map or Plan or Book of Reference, may be corrected by two Justices on application made to them, after giving ten days' notice to the owners of such lands, for the correction thereof, and the Justices shall certify the same accordingly if it shall appear to them that such omission, mistatement or erroneous description arose from mistake; and the Certificate shall state the particulars of any such omission and the manner thereof, and shall be deposited with the said Clerks of the Peace of the Districts or Counties respectively in which such lands shall be situate, and be kept by them respectively along with the other documents to which they relate; and thereupon, such Map or Plan or Book of Reference shall be deemed to be corrected according to such Certificate; and it shall be lawful for the Company to make the Railway in accordance with such Certificate.

Provision respecting surveys and levels.

Omissions how remedied.

Alterations from original survey.

Thirdly. If any alterations from the original Plan or Survey be intended to be made in the line or course of the Railway, a Plan and Section in triplicate of such alterations as shall have been approved of by Parliament, on the same scale and containing the same particulars as the original Plan and Survey, shall be deposited in the same manner as the original plan, and copies or extracts of such Plan and Section as shall relate to the several Districts, or Counties in or through which such alterations shall have been authorized to be made, shall be deposited with the Clerks of such several Districts and Counties.

Railway not to be proceeded with until Map, &c. deposited.

Fourthly. Until such original Map or Plan and Book of Reference, or the Plans and Sections of the alterations, shall have been deposited as aforesaid, the execution of the Railway, or of the part thereof affected by the alterations, as the case may be, shall not be proceeded with.

Clerks of the Peace to receive copies of original plan, &c.

Fifthly. The Clerks of the Peace shall receive and retain the copies of the original Plans and Surveys, and copies of the Plans and Sections of alterations, and copies and extracts thereof respectively, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, under a penalty for default of One Pound Currency.

Copies certified to Clerk to be good evidence in Courts.

Sixthly. The copies of the Maps, Plans, and Books of Reference, or of any alteration or correction thereof, or extracts therefrom, certified by any such Clerk of the Peace, which Certificate such Clerk of the Peace shall give to all parties interested when required, shall be received in all Courts of Justice or elsewhere as good evidence of the contents thereof.

Line not to deviate more than a mile.

Seventhly. No deviation of more than one mile from the line of the Railway or from the places assigned thereto, in the said Map or Plan and Book of Reference or Plans or Sections shall be made, nor into, through, across, under or over any part of the lands not shewn in such Map or Plan and Book of Reference, or plans or Sections, or within one mile of the said line and place, save in such instances as are provided for in the Special Act.

Error in the name of a person entered in a Book of Reference.

Eighthly. Provided that the Railway may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person be not entered in the Book of Reference through error or any other cause, or although some other person be erroneously mentioned as the owner of or entitled to convey, or be interested in such lands.

Extent of lands to be taken without consent of proprietor.

Ninthly. The Lands which may be taken without the consent of the proprietor thereof, shall not exceed thirty yards in breadth, except in such places where the Railway shall be raised more than five feet higher, or cut more than

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five feet deeper than the surface of the line, or where offsets shall be established, or where stations, depots or fixtures are intended to be erected, or goods be delivered, and then not more than two hundred yards in length by one hundred and fifty yards in breadth, without the consent of the person authorized to convey such lands; and the places at which such extra breadth is to be taken shall be shewn on the Map or Plan, or Plans or Sections, so far as the same may be then ascertained, but their not being so shewn shall not prevent such extra breadth from being taken provided it be taken upon the line shewn or within the distance aforesaid from such line.

Tenthly. The extent of the public beach, or of the land covered with the waters of any river or lake in this Province taken for the Railway, shall not exceed the quantity, limited in the next preceding clause.

Extent of public beach to be taken.

LANDS, AND THEIR VALUATION.

XI. And be it enacted, That the conveyance of lands, their valuation and the compensation therefor, shall be made in manner following:

Firstly. All Corporations and persons whatever, tenants in tail or for life, *gréves de substitution*, guardians, curators, executors, administrators, and all other trustees whatsoever not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons, who are or shall be seized, possessed of or interested in any lands, may contract for, sell and convey unto the Company all or any part thereof; and any contract, agreement, sale, conveyance and assurance so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in anywise notwithstanding, and such Corporation or person, so conveying as aforesaid, is hereby indemnified for what he or it shall respectively do by virtue of or in pursuance of this Act.

Corporation, &c. may convey lands.

Secondly. Provided, that any contract or agreement made by any party authorized by this Act to convey lands, and made before the deposit of the Map or Plan and Book of Reference, and before the setting out and ascertaining of the lands required for the Rail-way, shall be binding at the price agreed upon for the same lands, if they shall be afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land may, in the mean time, have become the property of a third party; and possession of the land may be taken and the agreement and price may be dealt with, as if such price

Effect of contracts made before deposit of map.

had been fixed by an award of Arbitrators as hereinafter provided, and the agreement shall be in the place of an award.

Corporations
who cannot sell,
may agree upon
a fixed rent.

Thirdly. All Corporations or persons who cannot in common course of law sell or alienate any lands so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands; and if the amount of the rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner herein prescribed, and all proceedings shall in that case be regulated as herein prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor shall agree to leave unpaid, the Rail-way and the tolls thereon shall be and are hereby made liable and chargeable in preference to all other claims and demands thereon whatsoever, the Deed creating such charge and liability being duly registered in the Registry Office of the proper County.

As to proprietors
par indivis.

Fourthly. Whenever there shall be more than one party proprietor of any land as joint tenant or tenants in common, or *par indivis*, any contract or agreement made in good faith with any party or parties proprietor or being together proprietors of one third or more of such land, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors as joint tenants or tenants in common and *par indivis*; and the proprietor or proprietors who have so agreed, may deliver possession of such land, or empower the entry upon the same, as the case may be.

After one
month's notice
of deposit of map,
&c., application
to the owner of
lands.

Fifthly. After one month from the deposit of the Map or Plan and Book of Reference as aforesaid, and from notice thereof in at least one newspaper, if there be any, published in each of the Districts and Counties through which the Rail-way is intended to pass, application may be made to the owners of lands or to parties empowered to convey lands, or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the Rail-way, and thereupon, agreements and contracts may be made with the said parties touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as shall seem expedient to both parties, and in case of disagreement between them, or any of them, then all questions which shall arise between them, shall be settled as follows, that is to say:

Deposit to be
general notice.

Sixthly. The deposit of a Map or Plan and Book of Reference, and the notice of such deposit, given as afore-

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said, shall be deemed a general notice to all such parties as aforesaid of the lands which will be required for the said Rail-way and works.

Seventhly. The notice served upon the party shall contain a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, describing them; a declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages, and the name of a person to be appointed as the Arbitrator of the Company, if their offer be not accepted: and such notice shall be accompanied by the Certificate of a Sworn Surveyor for Upper Canada or Lower Canada, as the case may be, disinterested in the matter, and not being the Arbitrator named in the notice, that the land, if the notice relate to the taking of land, shewn on the said map or plan and, is required for the Rail-way, or is within the limits of deviation hereby allowed; *Stc.* that he knows the land, or the amount of damage likely to arise from the exercise of the powers; and that the sum so offered, is, in his opinion, a fair compensation for the land, and for the damages as aforesaid.

Eighthly. If the opposite party be absent from the District or County in which the lands lie, or be unknown, then, upon application to a Judge of the District, County or Circuit Court, as the case may be, accompanied by such Certificate as aforesaid, and by an affidavit of some officer of the Company that the opposite party is so absent, or that after diligent enquiry, the party on whom the notice ought to be served cannot be ascertained, the Judge shall order a notice as aforesaid, but without a Certificate, to be inserted three times in the course of one calendar month in some newspaper published in the said District or County.

Ninthly. If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company his acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as Arbitrator, then the Judge shall, on the application of the Company, appoint a Sworn Surveyor for Upper or Lower Canada, as the case may be, to be sole Arbitrator for determining the compensation to be paid as aforesaid.

Tenthly. If the opposite party shall, within the time aforesaid, notify to the Company the name of his Arbitrator, then the two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then the Judge shall, on the application of the party or of the Company, (previous notice of at least one clear day having been given to the other party) appoint a third Arbitrator.

Eleventhly. The Arbitrators, or any two of them, or the sole Arbitrator, being sworn before some Justice of the

Notice to opposite party.

If the party be absent or unknown.

Party not accepting the Company's offer, and not appointing an arbitrator.

Appointment of arbitrators by opposite party.

Third arbitrator. Duties of arbitrators.

Peace for the District or County in which the lands lie as aforesaid, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the said compensation in such way as they or he, or a majority of them, shall deem best, and the award of such Arbitrators, or any two of them, or of the sole Arbitrator, shall be final and conclusive: Provided that no such award shall be made or any official act be done by such majority, except at a meeting held at a time and place of which the other Arbitrator shall have at least one clear day's notice, or to which some meeting at which the third Arbitrator was present, shall have been adjourned; and no notice to either of the parties shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed, or whose appointment they shall have required.

Proviso.

Costs how paid. *Twelfthly* Provided, that if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered, the costs of the Arbitration shall be borne by the opposite party, and deducted from the compensation, but if otherwise, they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the Judge aforesaid.

Arbitrators may examine on oath.

Thirteenthly. The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath or solemn affirmation the parties, or such witnesses as shall voluntarily appear before him or them, and may administer such oath or affirmation; and any wilfully false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly.

Time within which award must be made.

Fourteenthly. The Judge by whom any third Arbitrator or sole Arbitrator shall be appointed, shall, at the same time, fix a day on or before which the award shall be made, and if the same be not made on or before such day, or some other day to which the time for making it shall have been prolonged, either by the consent of the parties or by the order of the Judge (as it may be for reasonable cause shewn, on the application of such sole Arbitrator or of one of the Arbitrators after one clear day's notice to the others), then, the sum offered by the Company as aforesaid, shall be the compensation to be paid by them.

**Arbitrator dy-
ing, &c.**

Fifteenthly. If the Arbitrator appointed by such Judge, or if any Arbitrator appointed by the parties, shall die before the award be made, or be disqualified, or refuse or fail to act within a reasonable time, then, upon the application of either party, such Judge being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may, in his discretion, appoint another Arbitrator in the place of him by the Judge previously appointed, and the Company and party may each appoint an Arbitrator in the place of

their Arbitrator deceased or otherwise not acting as aforesaid, but no recommencement or repetition of prior proceedings shall be required in any case.

Sixteenthly. Any such notice for lands, as aforesaid, may be desisted from, and new notice given, with regard to the same or other lands, to the same or any other party, but in any such case, the liability to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment, shall subsist.

Company may desist paying costs.

Seventeenthly. The Surveyor or other person offered or appointed as Valuator or as Arbitrator, shall not be disqualified by reason that he is professionally employed by either party, or that he has previously expressed an opinion, as to the amount of compensation, or that he is related or of kin to any member of the Company, provided he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by the Judge after his appointment, but shall be made before the same, and its validity or invalidity shall be summarily determined by the Judge; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company or by the opposite party after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by any such Judge, on the application of either party; after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified, shall be held to have appointed no Arbitrator.

Arbitrators not disqualified for certain circumstances.

Eighteenthly. No award made as aforesaid shall be invalidated from any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party, or parties to whom the sum is to be paid, be named in the award.

Awards not avoided for want of form.

Nineteenthly. Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent shall have been awarded or agreed upon; and if any resistance or forcible opposition shall be made by any person, to their so

Possession may be taken, on payment, tender, &c., of sum awarded.

doing, the Judge, may, on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the District or County, or to a Bailiff, as he may deem most suitable, to put the said Company in possession, and to put down such resistance or opposition, which the Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do: Provided that such Warrant may also be granted by any such Judge, without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the said Railway with which the said Company are ready forthwith to proceed; and upon the said Company giving security to his satisfaction, and in a sum which shall not be less than double the amount mentioned in the notice, to pay or deposit the compensation to be awarded within one month after the making of the award, with interest from the time at which possession shall be given, and with such costs as may be lawfully payable by the Company.

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As to incumbrances upon lands &c., purchased or taken in Upper Canada.

Twentiethly. The compensation for any lands which might be taken without the consent of the proprietor, shall stand in the stead of such lands; and any claim to or incumbrance upon the said lands, or any portion thereof, shall, as against the Company, be converted into claim to the compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided that if the Company shall have reason to fear any claims or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful, if the lands be situated in Upper Canada, for them to pay such compensation into the office of either of the Superior Courts for Upper Canada, with the interest thereon for six months, and to deliver to the Clerk of the Court an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the Company to the land therein mentioned; and a notice, in such form and for such time as the said Court shall appoint, shall be inserted in some newspaper, if there be any published in the County in which the lands are situate, and in the City of Toronto, which shall state that the title of the Company, that is, the conveyance, agreement or award, is under this Act, and

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shall call upon all persons entitled to the land, or to any part thereof, or representing or being the husbands of any parties so entitled, to file their claims to the compensation or any part thereof, and all such claims shall be received and adjudged upon by the Court, and the said proceedings shall for ever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested, as to right and justice, and according to the provisions of this Act, and the Special Act and to law, shall appertain; and the costs of the proceedings, or any part thereof, shall be paid by the Company, or by any other party as the Court shall deem it equitable to order; and if such order of distribution as aforesaid be obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it shall not be obtained until after the six months are expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right.

Twenty-firstly. If the lands so taken be situate in Lower Canada, and if the said Company shall have reason to fear any such claim, mortgage, hypothec or incumbrance, or if any party to whom the compensation or annual rent, or any part thereof, shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the compensation or rent cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Superior Court for the District in which such land is situate, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award, if there be no conveyance, and such award shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that, in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is, the conveyance or award) is under this Act, and shall call upon all persons entitled to the lands, or any part thereof, or representing or being the husband of any party so entitled, to file their oppositions for their claims to the compensation, or any part thereof,

Case in which
lands are situate
in Lower Canada,
and Company
have reason to
fear incumbrances,
provided for.

and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the land, or any part thereof (including dower not yet open), as well as any mortgage, hypothec or incumbrance upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the security of the rights of all parties interested, as to right and justice, and the Special Act, and according to the provisions of this Act and to law, shall appertain; and the costs of the said proceedings, or any part thereof, shall be paid by the Company, or by any other party, as the Court shall deem it equitable to order; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it shall not be obtained until after the six months are expired, the Court shall order the Company to pay the Prothonotary the interest for such further period as may be right.

Case in which
Railway shall
pass through In-
dian lands, pro-
vided for.

Twenty-secondly. If the said Rail-way shall pass through any land belonging to or in possession of any Tribe of Indians in this Province, or if any act occasioning damage to their lands shall be done under the authority of this Act or the Special Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the lands or rights of other individuals; and whenever it shall be necessary that Arbitrators shall be chosen by the parties, the Chief Officer of the Indian Department within this Province, is hereby authorized and required to name an Arbitrator on behalf of the Indians, and the amount which shall be awarded in any case shall be paid, where the lands belong to the Indians, to the said Chief Officer, for the use of such Tribe or Body.

As to lands be-
longing to Her
Majesty, &c.

Twenty-thirdly. Whenever it shall be necessary for the Company to occupy any part of the lands belonging to the Queen's Majesty, reserved for Naval or Military purposes, they shall first apply for and obtain the license or consent of Her said Majesty, under the Hand and Seal of the Governor for the time being, and having obtained such license and consent, they may at any time or times enter into or upon, have, hold, use, occupy and enjoy any of the said lands for the purposes of the Rail-way; Provided always, that in the case of any such Naval or Military Reserves, no such license or consent shall be given but upon a Report first made thereupon by the Naval or Military authorities in which such lands shall for the time being be vested, approving of such license and consent being so given as aforesaid.

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HIGHWAYS AND BRIDGES.

XII. And be it enacted, That the Highways and Bridges shall be regulated as follows :

Firstly. The Rail-way shall not be carried along any existing Highway, but merely cross the same in the line of the Rail-way, unless leave be obtained from the proper Municipal authority therefor; and no obstruction of such Highway with the works shall be made without turning the Highway so as to leave an open and good passage for carriages, and, on completion of the works, replacing the Highway, under a penalty of not less than Ten Pounds for any contravention; but, in either case, the rail itself, provided it does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction.

Railway not to be carried along any highway without leave from Municipal authorities.

Secondly. No part of the Rail-way which shall cross any Highway without being carried over by a Bridge, or under by a Tunnel, shall rise above or sink below the level of the Highway more than one inch; and the Railway may be carried across or above any Highway within the limits aforesaid.

Railway not to rise more than one inch above level of highways when crossing the same.

Thirdly. The space of the arch of any Bridge erected for carrying the Rail-way over or across any Highway shall at all times be, and be continued of the open and clear breadth and space, under such arch, of not less than twenty feet, and of a height from the surface of such Highway to the centre of such arch of not less than twelve feet; and the descent under any such Bridge shall not exceed one foot in twenty feet.

Height and breadth of bridge over highways.

Fourthly. The ascent of all Bridges erected to carry any Highway over any Rail-way shall not be more than one foot in twenty feet increase over the natural ascent of the Highway; and a good and sufficient fence shall be made on each side of every Bridge, which fence shall not be less than four feet above the surface of the Bridge.

Ascent of bridges.

Fifthly. Signboards stretching across the Highway crossed at a level by any Rail-way, shall be erected and kept up at each crossing at such height as to leave sixteen feet from the Highway to the lower edge of the signboard, and having the words "Railway Crossing" painted on each side of signboard, and in letters not less than six inches in length; and for every neglect to comply with the requirements of this section, a penalty not exceeding Ten Pounds currency shall be incurred.

Precautions when Railway crosses a highway.

FENCES.

XIII. And be it enacted, That—

Fences to be erected on each side of Railway.

Firstly. Fences shall be erected and maintained on each side of the Rail-way, of the height and strength of an ordinary division fence, with openings, or gates, or bars therein and farm crossings of the Road, for the use of the proprietors of the lands adjoining the Rail-way; and also cattle guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on the Rail-way; and until such fences and cattle guards shall be duly made, the Company shall be liable for all damages which shall be done by their trains or engines to cattle, horses or other animals on the Railway; and after the fences or guards shall be duly made, and while they are duly maintained, no such liability shall accrue for any such damages unless negligently or wilfully done; and if any person shall ride, lead or drive any horse or other animal upon such Rail-way, and within the fences and guards, other than the farm crossings, without the consent of the Company, he shall for every such offence forfeit a sum not exceeding Ten Pounds, and shall also pay all damages which shall be sustained thereby to the party aggrieved; and no person other than those connected with, or employed by, the Rail-way, shall walk along the track thereof, except where the same shall be laid across or along a Highway.

Dividing and separating of lands for Railway from neighbouring lands.

Secondly. Within six months after any lands shall be taken for the use of the Rail-way, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, the lands shall be, by the Company, divided and separated and kept constantly divided and separated from the lands or grounds adjoining thereto, with a sufficient post or rail, hedge, ditch, bank or other fence sufficient to keep off hogs, sheep and cattle, to be set and made on the lands so taken, and which the Company shall, at their own costs and charges, from time to time, maintain, support and keep in sufficient repair.

TOLLS.

XIV. And be it enacted, That Tolls shall be established as follows :

Tolls to be fixed by By-laws.

Firstly. Tolls shall be from time to time fixed and regulated by the By-laws of the Company, or by the Directors if thereunto authorized by the By-laws, or by the Shareholders at any general meeting, and shall and may be demanded and received for all passengers and goods transported upon the Railway or in the Steam Vessels to the

undertaking belonging, and which shall be paid to such persons and at such places near to the Railway, in such manner and under such regulations as the By-laws shall direct; and in case of denial or neglect of payment of any such Tolls, or any part thereof, on demand, to such persons, the same may be sued for and recovered in any competent Court, or the Agents or servants of the Company may, and they are hereby empowered to seize the goods for or in respect whereof such tolls ought to be paid, and detain the same until payment thereof; and in the meantime the said goods shall be at the risk of the owners thereof; and if the said tolls shall not be paid within six weeks, the Company shall thereafter have power to sell the whole or any part of such goods, and out of the money arising from such sales to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale; rendering the surplus, if any, of the money realized from such sale, or of such of the goods as may remain unsold, to the person entitled thereto; and if any goods shall remain in the possession of the Company unclaimed for the space of twelve months, the Company shall thereafter, and on giving public notice thereof by advertisement for six weeks in the *Canada Gazette*, and in such other papers as they may deem necessary, have power to sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof to pay such tolls and all reasonable charges for storing, advertising and selling such goods; and any balance of such proceeds shall be kept by the Company for a further period of three months, to be paid over to any party entitled thereto; and in default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the Receiver General, to be applied to the General purposes of the Province, until such time as the same shall be claimed by the party entitled thereto; and all or any of the said tolls may, by any by-law, be lowered and reduced and again raised as often as it shall be deemed necessary for the interests of the undertaking: Provided that the same tolls *Proviso.* shall be payable at the same time and under the same circumstances upon all goods and persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-laws relating to the tolls.

Secondly. In all cases, a fraction in the distance over which goods or passengers shall be transported on the Railway shall be considered as a whole mile; and for a fraction of a ton in the weight of any goods, a proportion of the toll shall be demanded and taken, according to the number of quarters of a ton contained therein, and a fraction

A fraction of a mile to be considered as a whole one in charging tolls.

of a quarter of a ton shall be deemed and considered as a whole quarter of a ton.

Table of tolls to
be stuck up in
cars, &c.

Thirdly. The Directors shall, from time to time, print and stick up, or cause to be printed and stuck up, in the office, and in all and every of the places where the tolls are to be collected, and in every passenger car, in some conspicuous place there, a printed board or paper exhibiting all the tolls payable, and particularising the price or sum of money to be charged or taken for the carriage of any matter or thing.

Fourthly. No tolls shall be levied or taken until approved of by the Governor in Council, nor until after two weekly publications in the *Canada Gazette* of the By-law establishing such tolls, and of the Order in Council approving thereof.

Fifthly. Every By-law fixing and regulating tolls shall be subject to revision by the Governor in Council from time to time, after approval thereof as aforesaid; and after an Order in Council, reducing the tolls fixed and regulated by any By-law, shall have been twice published in the *Canada Gazette*, the tolls mentioned in such Order in Council, shall be substituted for those mentioned in such By-law so long as such Order in Council remains unrevoked.

GENERAL MEETINGS.

Shareholders
may hold gener-
al meetings.

XV. And be it enacted, That the Shareholders shall always have power to assemble together at general meetings for the purposes connected with or belonging to the undertaking, and at any annual general meeting, and elect Directors in the manner provided by the next succeeding clause.

DIRECTORS—THEIR ELECTION AND DUTIES.

Board of Direct-
ors.

XVI. And be it enacted, That—

Firstly. A Board of Directors of the undertaking to manage its affairs, the number whereof shall be stated in the Special Act, shall be chosen annually by a majority of the Shareholders voting at such election at a general meeting, the time and place for which shall be appointed by the Special Act, and if such election shall not be held on the day so appointed, it shall be the duty of the Directors to notify and cause such election to be held within thirty days after the day so appointed; and on the day so notified, no person shall be admitted to vote except those who would have been entitled to vote had the election been held on the day when it ought to have been held; and vacancies in the Board of Directors shall be filled in such manner as

may be prescribed by the By-laws; and no person shall be a Director unless he be a Stockholder, owning stock absolutely in his own right, and qualified to vote for Directors at the election at which he shall be chosen.

Secondly. The method of calling general meetings, and the time and place of the first meeting of Stockholders for the appointment of Directors, shall be determined and settled in the Special Act. Calling of special meetings, &c.

Thirdly. The number of votes to which each Shareholder shall be entitled on every occasion when the votes of the members are to be given, shall be in the proportion to the number of shares held by him, unless otherwise provided by the Special Act; and all Shareholders, whether resident in this Province or elsewhere, may vote by proxy, if they shall see fit: Provided that such proxy do produce from his constituent an appointment in writing, in the words or to the effect following that is to say: Votes to be in proportion to shares.

"I, _____, of _____, one of the Shareholders of the _____, do hereby appoint _____, of _____, to be my proxy, and in my absence to vote or give my assent to any business, matter or thing relating to the said undertaking, that shall be mentioned or proposed at any meeting of the Shareholders of the said Company, or any of them, in such manner as he, the said _____, shall think proper. In witness whereof, I have hereunto set my hand and seal, the day of _____, in the year _____."

Fourthly. The votes by proxy shall be as valid as if the principals had voted in person; and every matter or thing proposed or considered in any public meeting of the Shareholders shall be determined by the majority of votes and proxies then present and given as aforesaid, and all decisions and acts of any such majority shall bind the Company, and be deemed the decisions and acts of the Company. Votes by proxy.

Fifthly. The Directors first appointed, or those appointed in their stead, in case of vacancy, shall remain in office until the next annual election of Directors at the time appointed therefor, at which time an annual general meeting of the Shareholders shall be held to choose Directors for the ensuing year, and generally to transact the business, of the Company: Provided always, that the said Directors, in case of the death, absence or resignation of any of them may appoint others in their stead; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors. Terms of office of Directors.

Sixthly. The Directors shall, at their first or at some other meeting, after the day appointed for the annual gene-

Vice-President.

Quorum of Directors.

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Officers of Company cannot be Directors.

By-laws for management of stock, &c.

Calls.

ral meeting, elect one of their number to be the President of the Company, who shall always, when present, be the Chairman of and preside at all meetings of the Directors, and shall hold his office until he shall cease to be a Director, or until another President shall be elected in his stead; and they may in like manner elect a Vice-President, who shall act as Chairman in the absence of the President.

Seventhly. The Directors at any meeting at which not less than a quorum to be settled by the Special Act shall be present, shall be competent to use and exercise all and any of the powers vested in the said Directors, but no one Director shall have more than one vote at any meeting except the Chairman, who shall, in case of a division of equal numbers, have the casting vote, and the Directors shall be subject to the examination and control of the Shareholders at their annual meetings, and be subject to all By-laws of the Company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the Special Act; And provided also, that the act of any majority of a quorum of the Directors present at any meeting regularly held, shall be deemed the act of the Directors.

Eighthly. No person holding any office, place or employment in or being concerned or interested in any contracts under or with the Company, shall be capable of being chosen a Director, or of holding the office of Director.

Ninthly. The Directors shall make By-laws for the management and disposition of the stock, property and business affairs of the Company, not inconsistent with the laws of this Province, and for the appointment of all officers, servants and artificers, and prescribing their respective duties.

Tenthly. The Directors may from time to time make such calls of money upon the respective Shareholders, in respect of the amount of Capital respectively subscribed or owing by them, as they shall deem necessary, provided that thirty days' notice at the least be given of each call, and that no call exceed the prescribed amount to be determined therefor, in the Special Act, nor made at a less interval than two months from the previous call, or a greater amount be called in, in any one year, than the prescribed amount therefor in the Special Act, and every Shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons and at the times and places from time to time appointed by the Company or the Directors.

Eleventhly. If before or on the day appointed for payment, any Shareholder do not pay the amount of any call, he shall be liable to pay interest for the same, at the rate of six per centum per annum, from the day appointed for the payment thereof to the time of the actual payment. Interest to be charged on unpaid call.

Twelfthly. If at the time appointed for the payment of any call, any Shareholder shall fail to pay the amount of the call, he may be sued for the same, in any Court of Law or Equity having competent jurisdiction, and the same may be recovered with lawful interest from the day on which such call was payable. Amount of call may be recovered by suit.

Thirteenthly. In any action or suit to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the Defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear shall amount, in respect of one call or more upon one share or more, stating the number and amount of each of such calls, whereby an action hath accrued to the said Company by virtue of the Special Act. Certain formalities not necessary in actions for calls.

Fourteenthly. The Certificate of Proprietorship of any share shall be admitted in all Courts as *prima facie* evidence of the title of any Shareholder, his executors, administrators, successor or assigns, to the share therein specified; nevertheless, the want of such Certificate shall not prevent the holder of any share from disposing thereof. Certificate of proprietorship prima facie evidence.

Fifteenthly. Any persons neglecting or refusing to pay a rateable share of the calls as aforesaid, for the space of two calendar months after the time appointed for the payment thereof, shall forfeit their respective shares in the undertaking, and all the profit and benefit thereof; all which forfeitures shall go to the Company for the benefit thereof. Penalty for refusal to pay calls.

Sixteenthly. Provided that no advantage shall be taken of the forfeiture, unless the same shall be declared to be forfeited at a General Meeting of the Company, assembled at any time after such forfeiture shall be incurred, and every such forfeiture shall be an indemnification to and for every Shareholder so forfeiting against all actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on the said undertaking. Forfeiture of share not to be taken advantage of, unless declared at general meeting.

Seventeenthly. The Directors of the said Company may sell, either by public auction or private sale, and in such manner and on such terms as to them shall seem meet, any shares so declared to be forfeited, and also any shares remaining unsubscribed for in the Capital Stock of the Company, or pledge such forfeited or unsubscribed shares for the payment of loans or advances made or to be made Directors may sell forfeited shares by auction.

thereon, or of any sums of money borrowed or advanced by or to the Company.

Certificate of Treasurer to be evidence of forfeiture.

Eighteenthly. A Certificate of the Treasurer of the Company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact therein stated, and of their purchase by the purchaser; and with the receipt of the Treasurer for the price of such shares, shall constitute a good title to the shares, and the Certificate shall be by the said Treasurer enregistered in the name and with the place of residence and occupation of the purchasers, and shall be entered in the Books required to be kept by the By-laws of the Company, and such purchaser shall thereupon be deemed the holder of such shares, and shall not be bound to see to the application of the purchase money, nor shall his title to such shares be affected by any irregularity in the proceedings in reference to such sale, and any Shareholder may purchase any shares so sold.

Interest to be allowed to Shareholders paying money in advance on their shares.

Nineteenthly. Shareholders willing to advance the amount of their shares, or any part of the money due upon the respective shares beyond the sums actually called for, may pay the same, and upon the principal moneys so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the Company may pay interest at the legal rate of interest for the time being, as the Shareholders paying such sum in advance and the said Company may agree upon: Provided, such interest shall not be paid out of the Capital subscribed.

Directors to cause annual accounts to be kept.

Twentiethly. The Directors shall and they are hereby required to cause a true, exact and particular account to be kept and annually made up and balanced on the thirty-first day of December, in each year, of the money collected and received by the Company, or by the Directors or Managers thereof, or otherwise, for the use of the Company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the Company or the Directors, and at the general meetings of the Shareholders of the undertaking, to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare otherwise; and such dividend shall be at and after the rate of so much per share upon the several shares held by the Shareholders in the stock of the Company, as such meeting shall think fit to appoint or determine: Provided always, that no dividend shall be made whereby the Capital of the said Company shall be in any degree reduced or impaired, or be paid thereout, nor shall any dividend be paid in respect of any share after a day

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appointed for payment of any call for money in respect thereof until such call shall have been paid.

Twenty-firstly. The Directors of the Company may, in their discretion, until the Rail-road shall be completed and opened to the public, pay interest at any rate not exceeding Six Pounds per centum per annum, on all sums called up in respect of the shares, from the respective days on which the same shall be paid, such interest to accrue and be paid at such times and places as the Directors shall appoint for that purpose: Provided always, that no interest shall accrue to the proprietors of any share upon which any call shall be in arrear in respect of such shares or any other share to be holden by the same Shareholder during the period which such call shall remain unpaid, nor shall any interest be paid or taken from the Capital subscribed or any part thereof.

Directors may pay interest on sums called up in respect of shares.

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Twenty-secondly. The Directors shall from time to time appoint such and so many Officers as they may deem requisite, and take from them such sufficient security by one or more Bond or Bonds, in a sufficient penalty or penalties or otherwise from the Manager and Officers for the time being, for the safe keeping and accounting of the moneys to be raised by virtue of this Act and the Special Act, and for the faithful execution by them of their offices respectively, as the Directors shall think proper.

Directors may appoint officers.

Twenty-thirdly. In case of the absence or illness of the President, the Vice-President shall have all the rights and powers of the President, and shall be competent to sign all Notes, Bills, Debentures, and other Instruments, and to perform all acts which by the Regulations and By-laws of the Company or by the Acts incorporating the Company are required to be signed, performed and done by the President; and the Directors may at any meeting require the Secretary to enter such absence or illness among the proceedings of such meeting, and a Certificate thereof signed by the Secretary shall be delivered to any person or persons requiring the same on payment to the Treasurer of Five Shillings, and such Certificate shall be taken and considered as *prima facie* evidence of such absence or illness, at and during the period in the said Certificate mentioned, in all proceedings in Courts of Justice or otherwise.

Vice-President to act in the absence of the President,

Twenty-fourthly. All notices of meetings or of calls upon the Shareholders of the Company shall be published weekly in the *Canada Gazette*, and the said Gazette shall, on production thereof, be conclusive evidence of the sufficiency of the said notices.

Notices to be published in Canada Gazette.

SHARES AND THEIR TRANSFER.

XVII. And be it enacted, That—

Shareholders'
may dispose of
shares.

Firstly. Shares in the undertaking may be, by the parties, sold and disposed of by instrument in writing, to be made in duplicate in the form following, one part of which shall be delivered to the directors, to be filed and kept for the use of the said Company, and an entry thereof shall be made in a Book to be kept for that purpose; but no interest on the shares transferred shall be paid by the purchaser until said duplicate shall be so delivered, filed and entered.

Form of sale.

Secondly. Sales shall be in the form following, varying the names and descriptions of the contracting parties, as the case may require:

"I, A B, in consideration of the sum of
 " , paid to me by C. D, hereby do sell and transfer
 " to him share (or shares) of the
 " stock of the , to hold to
 " him the said C. D. his Heirs, Executors, Administrators
 " and Assigns, subject to the same rules and orders, and on
 " the same conditions that I held the same immediately
 " before the execution thereof. And I, the said C. D. do
 " hereby agree to accept of the said
 " share (or shares) subject to the same rules, orders and
 " conditions. Witness our hands this
 " day of
 " in the year of ."

Thirdly. The Stock of the Company shall be deemed personal estate, but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or the said shares shall have been declared forfeited for the non-payment of calls thereon, and no transfer of less than a whole share shall be valid.

Fourthly. If any share in the Company shall be transmitted by the death, bankruptcy or last will, donation or testament, or by the intestacy of any Shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the party to whom such share shall be so transmitted, shall deposit in the office of the Company a statement in writing, signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary, and without which such party shall not be entitled to receive any share of the profits of the Company, nor vote in respect of any such share as to the holder thereof.

MUNICIPALITIES.

XVIII. And be it enacted, That—

Firstly. Municipal Corporations in this Province may subscribe for any number of shares in the Capital Stock of, or lend to or guarantee the payment of any sum of money borrowed by the Company from any Corporation or person, or indorse or guarantee the payment of any Debenture to be issued by the Company for the money by them borrowed and shall have power to assess and levy from time to time upon the whole rateable property of the Municipality a sufficient sum for them to discharge the debt or engagement so contracted, and for the like purpose to issue Debentures payable at such times and for such sum respectively, not less than Five Pounds currency, and bearing or not bearing interest, as such Municipal Corporation, may think meet.

Secondly. Any such Debenture issued, indorsed or guaranteed, shall be valid, and binding upon such Municipal Corporation, if signed or endorsed, and countersigned by such officer or person, and in such manner and form as shall be directed by any By-law of such Corporation, and the Corporation Seal thereto shall not be necessary, nor the observance of any other form with regard to the Debentures than such as shall be directed in such By-law as aforesaid.

Thirdly. No Municipal Corporation shall subscribe for Stock or incur any debt or liability under this Act or the Special Act, unless and until a By-law to that effect shall have been duly made, and adopted with the consent first had of a majority of the qualified electors of the Municipality, to be ascertained in such manner as shall be determined by the said By-law, after public advertisement thereof containing a copy of such proposed By-law, inserted at least four times in each newspaper printed within the limits of the Municipality, or if none be printed therein, then in some one or more newspaper printed in the nearest City or Town thereto and circulated therein, and also put up in at least four of the most public places in each Municipality.

Fourthly. The Mayor, Warden or Reeve, being the head of such Municipal Corporation, subscribing for and holding Stock in the Company, to the amount of Five Thousand Pounds, or upwards, shall be and continue to be *ex officio* one of the Directors of the Company, in addition to the number of Directors authorized by the Special Act, and shall have the same rights, powers and duties as any of the Directors of the Company.

SHAREHOLDERS.

XIX. And be it enacted, That—

Shareholders individually liable.

Firstly. Each Shareholder shall be individually liable to the creditors of the Company to an amount equal to the amount unpaid on the Stock held by him, for the debts and liabilities thereof, and until the whole amount of his Stock shall have been paid up; but shall not be liable to an action therefor before an execution against the Company shall have been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against such Shareholders.

Stock may be increased.

Secondly. The original Capital Stock may be increased from time to time to any amount, but such increase must be sanctioned by a vote in person or by proxy, of at least two-thirds in amount of all the Shareholders, at a meeting of them expressly called by the Directors for that purpose, by a notice in writing to each Shareholder, served on him personally, or properly directed to him, and deposited in the Post Office nearest to his place of residence, at least twenty days previous to such meeting, stating the time and place and object of the meeting, and the amount of increase and the proceedings; of such meeting must be entered on the Minutes of the proceedings, and thereupon, the Capital Stock may be increased to the amount sanctioned by such a vote.

Sic.

Funds of Company not to be employed in purchasing other stock.

Thirdly. The funds of the Company shall not be employed in the purchase of any Stock in their own or in any other Company.

ACTIONS FOR INDEMNITY, AND FINES AND PENALTIES AND THEIR PROSECUTION.

XX. And be it enacted, That—

Limitation of assignees for damages.

Firstly. All suits for indemnity for any damage or injury sustained by reason of the Rail-way, shall be instituted within six calendar months next after the time of such supposed damage sustained, or if there shall be continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards; and the Defendants may plead the general issue and give this Act and the Special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this Act and the Special Act.

Penalty on persons obstructing free use of Rail-way.

Secondly. All persons by any means or in any manner or way whatsoever, obstructing or interrupting the free use of the Rail-way, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith,

shall, for every such offence, be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the common Gaol of the District or County where the conviction shall take place, or in the Provincial Penitentiary, for a term not to exceed five years.

Thirdly. All persons wilfully and maliciously, and to the prejudice of the Rail-way, breaking, throwing down, damaging or destroying the same, or any part thereof, or any of the buildings, stations, depots, wharves, vessels, fixtures, machinery or other works or devices incidental and relative thereto, or connected therewith, or doing any other wilful hurt or mischief, or wilfully or maliciously obstructing or interrupting the free use of the Rail-way, vessels or works, or obstructing, hindering or preventing the carrying on, completing, supporting and maintaining the Rail-way, vessels or works, shall be adjudged guilty of a misdemeanor, unless the offence committed shall, under some other Act or Law, amount to a felony, in which case such person shall be adjudged guilty of a felony, and the Court by and before whom the person shall be tried and convicted, shall have power and authority to cause such person to be punished in like manner as persons guilty of misdemeanor or felony (as the case may be) are directed to be punished by the laws in force in this Province.

Fourthly. All fines and forfeitures imposed by this Act or the Special Act, or which shall be lawfully imposed by any By-law, the levying and recovering of which are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the District, County or place where the act occurred, either by the confession of the parties, or by the oath or affirmation of any one creditable witness, which oath or affirmation such Justice or Justices is or are hereby empowered and required to administer without fee or reward, be levied by distress and sale of the offender's goods and chattels, by Warrant under the hand and seal or hands and seals of such Justice or Justices; and all fines, forfeitures and penalties, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer of the Company, to be applied to the use thereof, and the overplus of the money so raised, and after deducting the penalty and the expenses of the levying and recovering thereof, shall be returned to the owner of the goods so distrained and sold; and for want of sufficient goods and chattels whereof to levy the said penalty and expense, the offender shall be sent to the common Gaol for the County or District in which he shall have been convicted, there to remain without bail or mainprize, for such term, not exceeding one month, as the Justice or Justices shall think proper,

Penalty on persons damaging Railway.

Fines how recovered.

unless the penalty or forfeiture, and all expenses attending the same, shall be sooner paid and satisfied; but every such person or persons may, within four calendar months after the conviction, appeal against the same to the Court of General Quarter Sessions, to be holden in and for the County or District.

Contraventions
of this Act or of
Special Act to be
misdemeanors.

Fifthly. All contraventions of this Act or of the Special Act, by the Company or by any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the Company, if they be the offending party, from the forfeiture by this Act and the Special Act, of the privileges conferred on them by the said Acts, if by the provisions thereof or by law, the same be forfeited by such contravention.

By-laws to be
put into writing
and signed by
Chairman.

Sixthly. All By-laws, Rules and Orders regularly made, shall be put into writing and signed by the Chairman or person presiding at the meeting at which they were adopted, and shall be kept in the Office of the Company; and a printed copy of so much of them as may relate to or affect any party other than the members or servants of the Company, shall be affixed openly in all and every passenger car, and in all and every of the places where tolls are to be gathered, and in like manner so often as any change or alteration shall be made to the same; and any copy of the same, or of any of them, certified as correct by the President or Secretary, shall be deemed authentic, and shall be received as evidence thereof in any Court, without further proof: Provided nevertheless, that all such By-laws, Rules and Orders shall be submitted from time to time to the Governor General, or person administering the Government of this Province, for approval.

Proviso.

Copies of minutes to be *prima facie* evidence.

Seventhly. That copies of the Minutes of proceedings and resolutions of the Shareholders of the Company, at any general or special meeting, and of Minutes of proceedings and resolutions of the Directors, at their meetings, extracted from the Minute-books kept by the Secretary of the Company, and by him certified to be true copies, extracted from such Minute-books, shall be *prima facie* evidence of such proceedings and resolutions in all Courts of civil jurisdiction, and all notices given by the Secretary of the Company, by order of the Directors, shall be deemed notices by the said Directors and Company.

WORKING OF THE RAIL-WAY.

XXI. And be it enacted, That—

Firstly. Every servant of the undertaking employed in a passenger train or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, nor meddle or interfere with any passenger or his baggage or property.

Servants to wear badges.

Secondly. The trains shall start and run at regular hours to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as shall within a reasonable time previous thereto be offered for transportation at the place of starting, and at the junctions of other Railways and at usual stopping places established for receiving and discharging way-passengers and goods from the trains, and such passengers and goods shall be taken, transported and discharged, at, from, and to such places, on the due payment of the toll, freight or fare legally authorized therefor, and the party aggrieved by any neglect or refusal in the premises, shall have an action therefor against the Company.

Trains to start at public hours.

Thirdly. Checks shall be affixed by an agent or servant to every parcel of baggage having a handle, loop or fixture of any kind thereupon, and a duplicate of such Check shall be given to the passenger delivering the same; and if such Check be refused on demand, the Company shall pay to such passenger, the sum of Two Pounds, to be recovered in a civil action; and further, no fare or toll shall be collected or received from such passenger, and if he shall have paid his fare, the same shall be refunded by the Conductor in charge of the train; and any passenger producing such Check, may himself be a witness in any suit brought by him against the Company, to prove the contents and value of his baggage not delivered to him.

Checks to be fixed on parcels.

Fourthly. The baggage, freight, merchandize or lumber cars shall not be placed in rear of the passenger cars, and if any such be so placed, the officer or agent directing or knowingly suffering such arrangement, and the conductor of the train, shall severally be deemed guilty of a misdemeanor, and be punished accordingly.

Baggage cars not to be in rear of passenger cars.

Fifthly. Every locomotive engine shall be furnished with a bell, of at least thirty pounds weight, or a steam whistle; and the bell shall be rung, or the whistle sounded at the distance of at least eighty rods from every place where the Rail-way shall cross any highway, and be kept ringing or be sounded at short intervals, until the engine

Locomotive to be furnished with bells or steam whistles.

shall have crossed such highway, under a penalty of Two Pounds for every neglect thereof, to be paid by the Company, who shall also be liable for all damages sustained by any person by reason of such neglect, one half of which penalty and damages shall be chargeable to and collected by the Company from the Engineer having charge of such engine and neglecting to sound the whistle or ring the bell as aforesaid.

Passengers refusing to pay fare may be put out.

Sixthly. Passengers refusing to pay their fare, may, by the conductor of the train and the servants of the Company, be, with their baggage, put out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling house, as the conductor shall elect, first stopping the train.

Intoxicated conductor of locomotives.

Seventhly. All persons in charge of a locomotive engine, or acting as the conductor of a car or train of cars, who shall be intoxicated on the Rail-way, shall be deemed guilty of a misdemeanor.

Passengers to have no claim if injured when on platform of cars, &c.

Eighthly. Any passenger injured while on the platform of a car, or on any baggage, wood or freight car, in violation of the printed regulations posted up at the time in a conspicuous place, inside of the passenger cars then in the train, shall have no claim for the injury, provided sufficient room inside of such passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time.

GENERAL PROVISIONS.

XXII. And be it enacted, That—

Company not bound to see to execution of trusts.

Firstly. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares may be subject; and the receipt of the party in whose name any share shall stand in the Books of the Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the Register of Shareholders shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the Company have had notice of the trusts, and the Company shall not be bound to see to the application of the money paid upon such receipts.

Provisions to the carriage of Her Majesty's Mail, &c.

Secondly. Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others travelling on Her Majesty's service, shall at all times, when thereunto required by Her Majesty's Provincial Postmaster General, the Commander of the Forces, or any person having the Superintendence or Com-

mand of any Police Force, and with the whole resources of the Company if required, be carried on the Railway, on such terms and conditions, and under such regulations as the Governor in Council shall make; and the Company may be required by the Governor, or any person thereunto authorized by him, to place any Electric Telegraph, and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service; provided that any further enactments which the Legislature of this Province may hereafter make, for the carriage of the Mail of Her Majesty's Forces, and other persons and articles as aforesaid, or the tolls therefor, or in any way respecting the use of any Electric Telegraph or other service to be rendered to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act or the Special Act.

Thirdly. A true and perfect account of the names and places of abode of the several Shareholders shall be kept and entered in a Book to be kept for that purpose, as well as of the several persons who shall from time to time become proprietors of, or entitled to any shares therein, and of all the other acts, proceedings and transactions of the said Company and of the Directors from the time being.

Account of names and residence of Shareholders to be kept.

Fourthly. A Map and Profile of the completed Rail-way and of the land taken or obtained for the use thereof, shall, within a reasonable time after completion of the undertaking be made and filed in the office of the Commissioners of Public Works, and also like maps of the parts thereof located in different Counties, shall be filed in the Registry Offices for the Counties in which such parties shall be respectively; and every such Map shall be drawn on such a scale, and on such paper, as may from time to time be designated for that purpose by the Chief Commissioner of Public Works, and shall be certified and signed by the President or Engineer of such Corporation.

Map, &c., of Railway to be filed in the Board of Works Office.

Fifthly. An account shall be annually submitted to the three branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament after the opening of the Rail-way or any part thereof to the public, containing a detailed and particular account, attested upon oath of the President, or Vice-President in his absence, of the moneys received and expended by the Company, and a classified statement of the passengers and goods transported by them, with an attested copy of the last annual statement; and no further provisions which the Legislature may hereafter make with regard to the form or details of such account, or the mode of attesting or rendering the same, shall be deemed an infringement of the privileges hereby granted to the Company.

Account to be submitted to Legislature.

Ten per cent. to be paid within three years from passing of Special Act.

Sixthly. If the construction of the Rail-way shall not have been commenced, and ten per cent. on the amount of the Capital shall not have been expended thereon, within three years after the passing of the Special Act, or if the Rail-way shall not be finished and put in operation in ten years from the passing of such Special Act as aforesaid, its corporate existence and powers shall cease.

Parliament may reduce tolls on Railways.

Seventhly. The Legislature of this Province, may from time to time reduce the tolls upon the Rail-way, but not without consent of the Company, or so as to produce less than fifteen per cent. per annum profit on the Capital actually expended in its construction; nor unless, on an examination made by the Commissioners of Public Works of the amount received and expended by the Company, the net income from all sources, for the year then last passed, shall have been found to exceed fifteen per cent. upon the Capital so actually expended.

As to goods of a dangerous nature.

Eighthly. No person shall be entitled to carry or to require the Company to carry upon their Rail-way any *aqua fortis*, oil of vitriol, gunpowder, lucifer matches, or any other goods, which, in the judgment of the Company, may be of a dangerous nature; and if any person send by the said Rail-way any such goods without distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the Book-keeper or other Servants of the Company with whom the same are left at the time of so sending the said goods, he shall forfeit to the Company the sum of Five Pounds currency, for every such offence; and it shall be lawful for the Company to refuse to take any package or parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Forging debentures, &c., deemed felony.

Ninthly. The offence of forging any Debentures or a *Coupon* of any Debenture issued under the authority of this Act or of the Special Act, or of uttering any such Debenture or *Coupon*, knowing the same to be forged, or of being accessory before or after the fact to any such offence, shall be deemed felony, and be punished accordingly.

Company bound to make and repair fences, roads &c., in L. C., &c.

Tenthly. The Company shall make and keep in repair all fences, roads and water courses, and be subject to all municipal regulations and provisions in respect thereof in or for lands belonging to or held by the Company, and subject to any such regulations, or to any charges, public, municipal or local, as the case may be, in any County, Parish or Township in Lower Canada through which the Rail-way shall pass; and the said Company may, in default or contravention thereof, be prosecuted therefor by the Officers of the Municipality, before the Commissioners

Court or Circuit Court within the jurisdiction of which such fence, road or water course shall be, and the service of the Summons upon any Clerk or Officer in charge of the section of the Rail-way within the said jurisdiction, or at the nearest depot of the Rail-way, shall be good service upon the Company.

Eleventhly. Every Special Rail-way Act shall be a Public Act. Special Act to be a Public Act.

Twelfthly. The Legislature may at any time annul or dissolve any Corporation formed under this Act; but such dissolution shall not take away or impair any remedy given against such Corporation, its Shareholders, Officers or Servants, for any liability which shall have been previously incurred. And may dissolve any Corporation formed under this Act.

Thirteenthly. Nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned. Saving of Her Majesty's Rights.

Fourteenthly. No amendment or alteration in this Act shall be held to be an infringement of the rights of any Company authorized to construct a Railway by any Act of this or any future Session with which this Act is or shall be incorporated. Interpretation.

CAP. CLXIX.

An Act in addition to the General Railway Clauses Consolidation Act.

[Assented to 14th June, 1853.]

Preamble.

WHEREAS it is necessary to make provision for the protection of persons and property passing over Railways from criminal attempts to injure the same and for other purposes connected with Railways in this Province, and to amend the General Railway Clauses Consolidation Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That if any person shall wilfully and maliciously displace or remove any Railway switch or rail of any Railroad, or break down, rip up, injure or destroy any Railroad track or Railroad bridge or fence of any Railroad, or any portion thereof, or place any obstruction whatsoever on any such rail or Railroad track, or bridge, with intent thereby to injure any person or property passing over or along such Railroad, or to endanger human life, every such person so offending, shall be guilty of misdemeanor, and shall be punished by imprisonment with hard labor in the Common Gaol of the Territorial Division in which such offence shall be committed or tried, for any period not exceeding one year from conviction thereof; and if in consequence of such act done with the intent aforesaid, any person so passing over and along such Railroad, shall actually suffer any bodily harm, or any property passing over and along such Railroad shall be injured, such suffering or injury shall be an aggravation of the offence, and shall render such offence a felony, and shall subject the said offender to such punishment by imprisonment in the Provincial Penitentiary for not less than one year nor more than two years, as the circumstances of the case may, in the opinion of the Court before which he shall be convicted

Punishment of persons doing any thing to Railway with intent to injure persons or property.

And if such damage be actually done.

appear to be proportionate to the offence and the mischief occasioned by it.

II. And be it enacted, That if any person shall wilfully and maliciously displace or remove any Railway switch or rail of any Railroad, or shall break down, rip up, injure or destroy any Railroad track or Railroad bridge or fence of any Railroad or any portion thereof, or place any obstruction whatever on any such Rail or Railroad track or bridge, or shall do or cause to be done any Act whatever whereby any engine, machine or structure, or any matter or thing appertaining thereto shall be stopped, obstructed, impaired, weakened, injured or destroyed, with intent thereby to injure any person or property passing over or along such Railroad, and if in consequence thereof any person be killed or his life be lost, such person so offending shall be deemed guilty of manslaughter, and being found guilty, shall be punished by imprisonment in the Provincial Penitentiary for any period not more than ten nor less than four years.

And if any person be killed or his life be lost, the offence to be manslaughter and punishable as such.

III. And be it enacted, That if any person shall wilfully and maliciously do or cause to be done, any act whatever whereby any building, fence, construction or work of any such Railroad, or any engine, machine or structure of any such Railroad, or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, such person so offending shall be guilty of a misdemeanor, and punished by imprisonment with hard labor not exceeding one year, in the Common Gaol of the Territorial Division in which such offence shall have been committed or tried.

Committing any injury, stoppage, &c. to be a misdemeanor.

IV. And be it enacted, That notwithstanding any thing in the said General Act, or in any Act or Special Act heretofore passed or that hereafter may be passed, incorporating any Railway Company, wherein provision is made for the deposit of surveys, maps and books of reference, in the offices of the Clerks of the Peace and the Secretary of the Province, or in any other place, and wherein a time is specified in any such Act for such deposit, and where such time has elapsed or the Company may have omitted to make such deposit, such Company may extend the period for depositing such surveys, maps and books, absolutely for one year from the passing of this Act, and all surveys, maps and books deposited within the said year after the passing of this Act, shall be taken to be as valid and effectual to all intents and purposes as if the same had been duly deposited within the time mentioned in any such Act of Incorporation as aforesaid, and any such omission within such extension, shall not be taken to work any forfeiture of the Charter of any such Company.

The time allowed for deposit of plans, &c. extended, with power to Commissioner of Public Works to grant a further extension thereof.

Holds of Muni-
cipalities not to
vote at election
of private Direc-
tors; unless,
&c.

V. And be it declared and enacted, That notwithstanding any thing in the said General Railway Clauses Consolidation Act contained, it has not been, nor is, nor shall be lawful for the Mayor, Reeve or other Chief Officer, or other person representing any Municipality having or taking Stock in any Railway Company incorporated or to be incorporated in this Province, by any Act of this Session, either directly or indirectly to vote on the election or appointment of the private Directors of such Company, unless the Special Act of Incorporation of such Company shall expressly provide therefor in the said Special Act.

As to Trains
passing Draw-
bridges.

VI. And be it enacted, That in all cases where Railroads pass any Draw or Swing Bridge over any navigable River, Canal or Stream which is subject to be opened for the purposes of navigation, the Trains shall in all and every case be stopped at least three minutes, to ascertain from the Bridge Tender that the said Bridge is closed and in perfect order for passing, and in default of so stopping during the full period of three minutes the said Railroad Company shall be subject to a fine or penalty of One Hundred Pounds.

Ground adjoining
any Railway
and belonging to
the Company to
be laid down
with grass and
cleared of weeds,
&c.

VII. And be it enacted, That it shall be the duty of every Railway Company, whether any of the clauses or provisions of the said Act be or be not incorporated with the Act incorporating such Company, to cause all cleared land or ground adjoining their Railway and belonging to such Company, to be sown or laid down with grass or turf, and to cause the same so far as may be in their power to be covered with grass or turf, if not already so covered, and to cause all thistles and other noxious weeds growing on such land or ground, to be cut down and kept constantly cut down or to be rooted out of the same; and if any Railway Company shall fail to comply with the requirements of this Section within twenty days after they shall have been required to comply with the same, by notice from the Mayor, Reeve or Chief Officer of the Municipality of the Township or County in which such land or ground shall lie, such Company shall thereby incur a penalty of Ten Shillings to the use of such Municipality for each day during which they shall neglect to do any thing which they are lawfully required to do by such notice, and it shall be lawful for the said Mayor, Reeve or Officer, to cause all things to be done which the said Company were lawfully required to do by such notice, and for that purpose to enter by himself and his assistants or workmen upon such lands or grounds, and such Municipality may recover the expenses and charges incurred in so doing, and the said penalty with costs of suit, in any Court having jurisdiction in civil cases to the amount sought to be recovered.

Doubts under
the said Act

VIII. And for avoiding doubts under the said Act, Be it declared and enacted, That it is not, and shall not be lawful

for any Railway Company, to take possession of, use or occupy (15 & 15 V.c. 51) any lands vested in Her Majesty, without the consent of the Governor in Council; but that with the consent of the Governor in Council, it is and shall be lawful for any such Railway Company, to take and appropriate for the use of their Railway and works, but not to alienate, so much of the wild lands of the Crown not heretofore granted or sold, lying on the route of the said Railway, as may be necessary for their Railway, as also so much of the land covered with the waters of any Lake, River, Stream or Canal, or of their respective beds, as may be found necessary for making and completing and using their said Railway and works; Provided always, That it shall not be lawful for any such Company to cause any obstruction in or impede the free Navigation of any River, Stream or Canal to or across or along which their Railway may be carried, and if such Railway shall be carried across any navigable River or Canal, the Company shall leave openings between the abutments or piers of their Bridge or Viaduct over the same, and shall make the same, of such clear height above the surface of the water or shall construct such Draw Bridge or Swing Bridge over the Channel of the River, or over the whole width of the Canal, and shall be subject to such regulations as to the opening of such Swing Bridge or Draw Bridge as the Governor in Council shall from time to time make, nor is it, nor shall it be lawful for any such Company to construct any Wharf, Bridge, Pier or other work upon or over any navigable River, Lake or Canal, or upon the beach or bed or lands covered with the waters thereof, until they shall have first submitted the plan and proposed site of such work to the Governor in Council, and the same shall have been by him approved; nor shall any deviation from such approved site and plan be made without his consent: Provided always that nothing contained in this section shall be construed to limit or affect any power expressly given to any Railway Company by its Special Act of Incorporation or any special Act amending the same: And further provided that nothing herein contained, shall apply to the twenty-second and twenty-third paragraphs of the eleventh Section of the Railway Clauses consolidation Act.

Proviso: conditions on which the Company may carry their Railway across any Canal, River, or navigable water.

Proviso.

Proviso.

IX. And be it enacted, That any incorporated Railway Company shall be authorized to construct a branch or branches not exceeding six miles in length from any terminus or station of the Railway of such Company, whenever a By-law sanctioning the same shall have been passed by the Municipal Council of the Municipality within the limits of which such proposed branch shall be situate and any such branch shall not as to the quality and construction of the road be subject to any of the restrictions which

Any Railway Company may construct Branch Railway, on certain conditions.

may be contained in the Act of Incorporation of such Company or in the Railway Clauses Consolidation Act, nor shall any thing in either of the said Acts authorise any Company to take for such branch any lands belonging to any party without the consent of such party first obtained.

Act to apply to
all Railways.

X. And be it enacted, That the provisions of this Act shall from the passing thereof apply to every Railway made or to be made in this Province.

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Or other Chief Officer, representing a Municipality, not entitled to vote for Private Directors, 16 Vic., Cap. 169,	5	
When Director ex-officio,	18	4
May notify Company to sow their land with grass, and to clear away weeds, 16 Vic., Cap. 169,	7	
On their neglect, may enter upon their lands and cause the same to be done, 16 Vic., Cap. 169,	7	
Such expenses incurred, may be recovered by the Municipality, 16 Vic., Cap. 169,	7	

MEETINGS,

General Meetings shall be held,	15	
Directors to be elected at Annual Meeting,	16	1
Method of calling to be settled by Special Act,	16	2
General business to be transacted at Annual Meetings,	16	5
Dividends to be declared at General Meetings,	16	20
Notices to be published weekly, in the Canada Gazette,	16	24

MINUTES,

To be kept in writing of all By-laws, Rules and Orders,	20	6
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MINUTES.—Continued.

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Copies thereof, extracted from Minute Book by Secretary, and certified, evidence,	20	6
A full account of all Proceedings of Directors and Companies to be kept,	22	3

MISDEMEANOR,

Persons obstructing Railway, or works incidental thereto, guilty of,	20	2
Punishment for,	20	2
Wilful destruction of Railway or works, a misdemeanor, unless it amounts to felony,	20	3
Punishment for,	20	3
All contraventions of this Act, a misdemeanor,	20	5
Officer or Agent directing or suffering, or Conductor leaving baggage cars in rear of passenger cars, guilty of,	21	4
Conductors intoxicated, guilty of,	21	7
Wilfully and maliciously displacing or breaking down any portion of Railroad, or placing obstructions with intent to injure persons or property, 16 Vic., Cap. 169,	1	

MORTGAGE,

Companies may mortgage their lands, revenues, &c.,	9	11
On lands taken by Companies in Upper Canada, how barred, and provisions relating thereto,	11	20
Incumbrances on lands, as against Company, converted into claim to compensation,	11	20
Mortgages on lands taken in Lower Canada, by the Companies, how barred, and provisions relating thereto,	11	21

MUNICIPALITIES,

May subscribe for any number of Shares in Capital Stock,	18	1
May lend money to Company,	18	1
May guarantee the payment of money by Company,	18	1
May indorse or guarantee payment of Indentures of Companies,	18	1
Have power to assess and levy on the rateable property to meet such engagements,	18	1
May issue Debentures, not less than five pounds, with or without interest,	18	1

MUNICIPALITIES.—Continued.

		Sus	Sus
		Szcs.	Szcs.
	Such Debentures valid, if in manner provided by		
	By-law,	18	2
	Not to subscribe for Stock, or incur liabilities, till a		
	By-law be adopted by a majority of Electors, . .	18	3
	Provisions as to such By-laws,	18	3
	Head of the Municipality, holding Stock to the		
	amount of £5000, a Director,	18	4
	Their regulations binding on Companies,	22	10
	Their Officers may prosecute in Lower Canada before		
	Circuit Court, or Commissioners Court, effecting		
	service in Clerk or other Officer of Company, .	22	10
	Heads of, not entitled to vote at election of Private		
	Directors, unless specially permitted by Special		
	Act, 16 Vic., Cap. 169,	5	
	May recover by action all expenses incurred in		
	clearing grounds of Companies, of weeds on their		
	neglect to do so, 16 Vic., Cap. 169,	7	

NOTICE.

	Of deposit of Maps, to be made in at least one News-		
	paper in Counties,	11	5
	Deposit of Map and Book of Reference, and such		
	notice to be a General Notice,	11	6
	What notice served upon parties shall contain, . .	11	7
	To be accompanied by Certificate of Surveyor, that		
	the land is required for Railway &c.,	11	7
	On application to Judge, if party be absent, he may		
	order publication of notice in a Newspaper, .	11	7
	Any notice may be desisted from, and new notice given,	11	15
	Of sale of unclaimed goods,	14	1
	Thirty days notice of calls to be given,	16	10
	Of Meetings or of calls to be published weekly in		
	Canada Gazette, ,	16	24
	To be given of running of Trains,	21	2
	Notice in writing to be sent to the Company of		
	dangerous goods,	22	7
	Notice in writing of intention to increase Stock, to		
	be mailed to each Shareholder,	19	2
	Notices by Secretary by order of Director, deemed		
	notices of Director,	20	7

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Meaning of word "owner" as regards notices, . . .	7	2
Notice to be published with respect to title of Companies, to lands incumbered,	11	20
Notice may be given by Municipality to Company to clear lands of weeds, 16 Vic., Cap. 169, . . .	7	

OFFICERS,

Appointed by Directors,	16	22
Their duties prescribed by Directors,	16	9
To give security,	16	22

OFFENCES,

Wilfully or maliciously displacing or removing switches, or injuries done, or obstacles interposed, with intent to injure, misdemeanor, 16 Vic., Cap. 169,	1	
Punishment therefor, 16 Vic., Cap. 169,	1	
If bodily harm be sustained, or property injured thereby, such acts amount to felony, [16 Vic., Cap. 169,	1	
Punishment therefor, 16 Vic., Cap. 169,	1	
If in consequence of such malicious acts life be lost, manslaughter, 16 Vic., Cap. 169,	2	
Punishment therefor, 16 Vic., Cap. 169,	2	
If injury be done to Road, or stoppage occasioned, acts punishable as misdemeanor, 16 Vic., Cap. 169,	3	

PASSENGERS,

May sue for damages caused by want of accommodation,	21	2
May recover £2, if Check be refused them,	21	3
Competent witnesses as to value of baggage lost,	21	3
Who refuse to pay the fare may be ejected,	21	6
Injured while on Platform or other forbidden place, not entitled to claim for injuries,	21	8

PENALTY,

For refusal of Clerk of Peace to permit inspection of Plans, &c.,	10	5
For contravention by Companies of regulations as to construction of Railway across the Highways,	12	1
For neglect of provisions as to Signboards at crossing,	12	5

PENALTY.—Continued.

		Sms Smo.	Sms Smo.
2	For driving cattle, horses across Railway, except at farm crossings,	13	1
20	For neglect to sound bell of Locomotive,	21	5
	Forfeiture for sending goods of a dangerous nature, without notice to the Company,	22	8
22	For Trains passing Drawbridge without stopping, 16 Vic., Cap. 169,	6	
9	For not laying down lands of Companies in grass, or for not clearing weeds, 16 Vic., Cap. 169, . .	7	

PERJURY,

	Wilful false statement made by witness on oath before Arbitrator,	11	13
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PLANS,

	To be made of course of Roads,	10	1
	To be examined by Surveyor General,*	10	1
	Copies to be deposited by him,	10	1
	Duplicates of, or copies certified to be evidence, . .	10	1
	If any alteration from original Plan, a Plan as approved by Parliament, to be deposited in like manner,	10	3
	Until Plan made, Railway not to be proceeded with, .	10	4
	Open to inspection in Office of Clerk of Peace, . .	10	5
	No deviation of more than a mile allowed, . . .	10	7
	May be carried across lands, although name of owner is erroneously entered in Reference Book, .	10	8
	Extra breadth of land taken for Stations to be shewn on Plans,	10	9
	Deposit of Maps and Books, and notice of deposit, a General Notice,	11	6
	Of completed Road, and land taken, to be filed with Commissioners of Public Works, and in Registry Office,	22	4
	To be drawn on scale and paper, regulated by Board of Works,	22	4
	To be certified and signed by Engineer or President, When a time is specified in General Act or Special Acts for depositing, and such deposit has been	22	4

* Commissioner of Crown Lands,—see 8 Vic. Cap 11.

PLANS.—Continued.

		Ses Ses.Smo.
	omitted, Plans may be extended for one year * after the passing of this Act, and such deposit is valid and effectual, 16 Vic., Cap. 169, . . .	4
	Of Bridges and wharves over navigable waters, to be first submitted to Governor in Council. <i>Idem.</i>	9
PRESIDENT,		
	Chairman of the Company,	16 6
	Entitled to Casting Vote,	16 7
	To certify and sign the completed Map of Railway, .	22 4
	To attest on oath Annual Statement,	22 1
PROFILE,		
	Of completed Road, and of lands taken, to be made and filed with Commissioners of Public Works,	22 4
PROXY,		
	Form of,	16 3
	Votes by, valid,	16 4
QUARTER SESSIONS,		
	Appeal lies to, from convictions before Justices, . .	20 4
RAILWAYS,		
	Provisions as to working of,	21
	"The Railway" meaning of Term,	7 2
	"The Undertaking," when used in Act, means the Railway and works, by the Special Act authorized to be executed,	7 1
RAILWAY PROTECTION ACT,		
	Applies to every Railway, made or to be made, 16 Vic., Cap. 194,	10
REPEALED CLAUSES,		
	The fifth and sixth Sections of Act, repealed by the 16 Vic., Cap. 2.	
SECRETARY OF PROVINCE,		
	Copies of Plans and Book of Reference, to be depo- sited with,	10 1
	8d. per 100 words to be paid for extracts therefrom,	10 1
	Copies certified by, good evidence,	10 1
SECURITY,		
	To be taken from Officers,	16 22
SERVANTS,		
	To wear Badges,	21 1
	Not entitled to receive Fares, &c., without Badges, .	21 1
	To affix Checks,	21 3
	Engineer neglecting to sound bell, liable for half penalty and damages,	21 5

* Assented to 14th June, 1853.

SERVANTS.—Continued.

		Sus	Sus
		Sus.	Sus.
Conductors or persons in charge of a Locomotive, guilty of a misdemeanor, if intoxicated, . . .	21	7	

SHAREHOLDERS,

Meaning of Term,	7	2	
Exempted from personal liability. Page 6. Note.			
May regulate and fix Tolls at General Meetings, . .	14	1	
Have power to assemble in General Meetings, . .	15		
Have power to elect Directors,	15		
May vote by proxy,	16	3	
Liable to pay amount of calls,	16	10	
Liable to pay interest, on default of payment of calls,	16	11	
May be sued for calls,	16	12	
Evidence of proprietorship of Shares,	16	14	
Neglecting, to pay call for two months, liable to for- feiture of their Shares,	16	15	
Indemnified by forfeiture, from Actions,	16	16	
Any Shareholder may purchase forfeited Shares, .	16	18	
May advance monies on their Shares, to Companies, and receive interest on advances,	16	19	
By transmission, not entitled to vote or receive profits till proof deposited with Company,	17	4	
Individually liable to amount unpaid on his Shares,	19	1	
But not liable till an execution against the Company be wholly or partially unsatisfied,	19	1	
Vote of two-thirds of all the Shareholders necessary to an increase of Capital,	19	2	
True List of names, and abodes of, to be kept, . .	22	3	

SHARES,

Certificate of proprietorship evidence of title in, . .	16	14	
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May be forfeited,	16	15	
Forfeited, may be sold,	16	17	
Unsubscribed, may be sold,	16	17	
Unsubscribed or forfeited Shares may be pledged to secure loans,	16	17	
Certificate and receipt of Treasurer, title to forfeited Shares,	16	18	
On registration and entering in the Books of the Company, purchaser becomes holder of such Shares,	16	18	

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Shares may be sold by instrument in writing, . . .	17	1
Form of such instrument,	17	2
Personal Estate,	17	3
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Transfer of less than a Share invalid,	17	3
Statement of transfer of Shares, with copy of probate of will or extracts therefrom, and such other proof as may be necessary to be deposited with Company,	17	4
Receipt of party or one of them, in whose names Shares stand, a sufficient discharge,	22	1
SHERIFF,		
Meaning of the word as variously used in the Act, .	7	2
SPECIAL ACTS,		
Interpretation of certain Terms in,	7	
Are incorporated with General Act,	1	
Substance of clauses in General Act, which are described in Special Act, incorporated.	3	
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To determine mode of calling General Meetings, and time and place, of first meeting for election of Directors,	16	2
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To settle the <i>quorum</i> of Directors,	16	7
Without infringement of, further provisions may be made as to Mails, Military, and Telegraphs, . . .	22	2
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If Railway be not in operation within ten years from passing of Special Act, corporate powers cease, . . .	22	6
Every Special Act, a Public Act,	22	11
Alterations of this Act, no infringement of rights of Companies organized by Special Acts,	22	14

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	Corporation, formed under General Act may be dissolved by the Legislature,	22 12
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2	STOCK,	
3	The Capital Stock may be increased from time to time,	19 2
3	Such increase must be sanctioned by a vote of two- thirds of all the Shareholders,	19 2
3	Provisions as to increase,	19 2
	The funds of the Company not to be used for purchasing their own or other Stock,	19 3
7 4	SUMMONS,	
2 1	For contravention of Municipal Regulations in Lower Canada, may be served on Clerk, or other Officer in charge,	22 10
7 2	SUPERIOR COURTS,	
7	Term, means Courts of Chancery, Queen's Bench, and Common Pleas in Upper Canada, and Superior Court in Lower Canada,	7 2
1	TELEGRAPH,	
3	To be placed at disposal of Government,	22 2
4	Further enactments as to, may be made, without infringement of this or Special Act,	22 2
	TOLLS AND FARES,	
6 2	Meaning of word "Tolls,"	7 2
6 1	Regulations as to,	14
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	How fixed and regulated,	14 1
2 2	May be recovered by Suit,	14 1
	Goods may be seized for Tolls,	14 1
2 5	May be lowered or raised by By-law,	14 1
	Same Tolls payable on all goods and persons,	14 1
	A fraction in distance to be reckoned a mile,	14 2
	Fractions of Fares, to be estimated according to Quarter Tons,	14 2
2 6	Tariff of Tolls to be posted,	14 3
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2 11	By-laws regulating Tolls, subject to revision by Governor,	14 5
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	SUB SEC.SEC.	
May be reduced by Order in Council,	14	5
None to be collected from passengers refused a Check,	21	3
Passengers refusing to pay Fares, may be landed. .	21	6
May be reduced by the Legislature, but not without consent of Company, or so as to produce less than 15 per centum,	22	7
TRAINS,		
To start at regular hours,	21	2
To be furnished with sufficient accommodation for transportation,	21	2
Action to lie for neglect or refusal to transmit, . .	21	2
Baggage and freight cars not to be placed in rear of Passenger Cars,	21	4
Locomotives to be furnished with bells,	21	5
Bells to be rung,	21	5
Shall be stopped three minutes, at every Draw or Swing-bridge over navigable rivers, 16 Vic., Cap. 169,	6	
Penalty for not so stopping, £100, 16 Vic.; Cap. 169,	6	
TRANSMISSION,		
Of Shares, evidence of to be deposited in Office of Company to entitle to Share of profits or to vote,	17	4
TREASURER,		
Certificate of, evidence of forfeiture and purchase of Shares,	16	18
Certificate to be enregistered by,	16	18
TREES,		
May be felled or removed to the distance of six rods of Road,	14	9
VICE PRESIDENT,		
Chairman in absence of the President,	16	6
In absence or illness of President, vested with his powers,	16	23
Then competent to sign Bills, Notes and Instruments,	16	23
And to perform other Acts, required by By-laws, of President,	16	24
In absence of President, to attest, on oath, the Annual Statement,	22	5

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